



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

999 18<sup>TH</sup> STREET- SUITE 300

DENVER, CO 80202-2466

Phone 800-227-8917

<http://www.epa.gov/region08>

COPY

FEB 22 2005

Ref: 8ENF-W-NP

**CERTIFIED MAIL 7003-2260-0001-7779-2203**  
**RETURN RECEIPT REQUESTED**

Mr. Dirk Lenthe  
Service Oil  
1718 East Main Ave  
West Fargo, North Dakota 58078

Notice of Proposed Assessment of Civil Penalty  
Permit No. NDR03-0571

Dear Mr. Lenthe:

Enclosed is a document entitled Penalty Complaint and Notice of Opportunity for Hearing ("Complaint"). The United States Environmental Protection Agency ("EPA") is issuing this Complaint against Service Oil, Inc., ("Respondent") pursuant to section 309 of the Clean Water Act ("Act"), 33 U.S.C. § 1319. In the Complaint, EPA alleges that Respondent violated section 301(a) of the Act, 33 U.S.C. § 1311(a), and the storm water requirements specified in North Dakota Pollutant Discharge Elimination System ("CDPS") permit No. NDR03-0571. The Complaint proposes that a penalty of \$80,000 be assessed against Respondent for these violations.

You have the right to a hearing to contest the factual allegations in the Complaint or the appropriateness of the proposed penalty. We have enclosed a copy of 40 C.F.R. part 22, which identifies the procedures EPA follows in administrative civil penalty assessments.

**If you wish to contest the allegations in the Complaint or the penalty proposed in the Complaint, you must file an answer within thirty (30) days of your receipt of the enclosed Complaint to the EPA Region VIII Hearing Clerk at the following address:**

Regional Hearing Clerk (8RC)  
U.S. EPA, Region VIII  
999 18th Street, Suite 300  
Denver, Colorado 80202-2466

If you do not file an answer within 30 days [see 40 C.F.R. § 22.15(d)], you may be found in default. A default judgment may impose the full penalty proposed in the Complaint of \$80,000.

EPA encourages the consideration of Supplemental Environmental Projects (SEPs) in conjunction with civil penalties, in the settlement of civil enforcement cases. If you are interested in this possibility, we have enclosed a copy of the EPA policy that describes the possibilities and limitations of SEPs in such matters. An agreement to perform a SEP may result in a lower cash penalty amount.

EPA encourages settlement of these proceedings at any time prior to a formal hearing if the settlement is consistent with the provisions and objectives of the Act and applicable regulations (See 40 C.F.R. § 22.18). If a mutually satisfactory settlement can be reached, it will be formalized in a consent agreement signed by you and the delegated authority for EPA. Upon final approval of the consent agreement by the Regional Judicial Officer, Respondent will be bound by the terms of the consent agreement and will waive its right to a hearing on, and judicial appeal of, the agreed upon civil penalty. You have the right to be represented by an attorney at any stage of the proceedings, including any informal discussions with EPA.

A Small Business Regulatory Enforcement and Fairness Act (SBREFA) information sheet, containing information on compliance assistance resources and tools available to small businesses, is enclosed with this letter. SBREFA does not eliminate your responsibility to comply with the Act and respond to this Complaint.

If you have any questions regarding this letter, the enclosed Complaint, or any other matters pertinent to compliance with the Act, the most knowledgeable people on my staff regarding these matters are Aaron Urdiales, Technical Enforcement, at (303) 312-6844 or Elyana Sutin, Enforcement Attorney, at (303) 312-6899. If you are represented by an attorney, or to request a settlement conference, please call Elyana Sutin. Please note that arranging for a settlement meeting does not relieve you of the need to file a timely answer to EPA's Complaint.

Sincerely,



Carol Rushin  
Assistant Regional Administrator  
Office of Enforcement, Compliance  
and Environmental Justice

Enclosures:

1. Penalty Complaint and Notice of Opportunity for Hearing
2. Consolidated Rules of Practice (40 C.F.R. Part 22)
3. Supplemental Environmental Projects Policy
4. Small Business Regulatory Enforcement and Fairness Act Information

cc: Tina Artemis, Regional Hearing Clerk  
Gary Bracht, NDDH

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY 2005 FEB 22 PM 2:33  
REGION 8

Docket No. CWA-08-2005-0010

In the Matter of:

Service Oil, Inc.,  
A North Dakota corporation,

Respondent.

## PENALTY COMPLAINT AND NOTICE OF OPPORTUNITY FOR HEARING

## INTRODUCTION

1. This civil administrative enforcement action is authorized by Congress in section 309(g) of the Federal Water Pollution Control Act, commonly known as the Clean Water Act (the "CWA" or "Act"), 33 U.S.C. §1319(g). The rules for this proceeding are the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders and the Revocation, Termination or Suspension of Permits ("Rules of Practice")," 40 C.F.R. (Code of Federal Regulations) part 22.
2. The undersigned United States Environmental Protection Agency ("EPA") official has been properly delegated the authority to issue this complaint. EPA has consulted with the State of North Dakota as required by section 309(g)(1) of the Act, 33 U.S.C. §1319(g)(1).
3. The EPA alleges that the Respondent, Service Oil, Inc. ("Respondent"), has violated the Act and its implementing regulations and proposes the assessment of a civil penalty, as more fully described below.

## NOTICE OF OPPORTUNITY FOR A HEARING

4. The Respondent has the right to a public hearing before an administrative law judge to disagree with any allegation EPA has made in this complaint and/or the appropriateness of the penalty EPA has proposed.
5. To assert its right to a hearing, the Respondent must file a written answer (and one copy) with the Regional Hearing Clerk of EPA Region 8 (999 18<sup>th</sup> Street, Suite 300, Mail Code 8RC, Denver, Colorado 80202) within 30 days of receiving this complaint. The answer must clearly admit, deny or explain the factual allegations of the complaint, the grounds for any defense, the facts the Respondent disputes, and its request for a public hearing. Please see section 22.15 of the Rules of Practice for more information on what must be in the answer. **FAILURE TO FILE AN ANSWER AND REQUEST FOR HEARING WITHIN 30 DAYS MAY WAIVE THE RESPONDENT'S RIGHT TO DISAGREE**

1 WITH THE ALLEGATIONS AND/OR PROPOSED PENALTY. IT MAY ALSO  
2 RESULT IN A DEFAULT JUDGMENT AND ASSESSMENT OF THE FULL  
3 PENALTY PROPOSED IN THE COMPLAINT OR THE MAXIMUM PENALTY  
4 AUTHORIZED BY THE ACT.  
5

### 6 QUICK RESOLUTION

7

- 8 6. The Respondent may resolve this proceeding at any time by paying the penalty amount  
9 proposed in this complaint. Such payment need not contain any response to, or admission  
10 of, the allegations in this complaint. Such payment waives the Respondent's right to  
11 contest the allegations and to appeal any final order resulting from this complaint. See  
12 section 22.18 of the Rules of Practice for more explanation of the quick resolution  
13 process.  
14

### 15 SETTLEMENT NEGOTIATIONS

16

- 17 7. EPA encourages informal settlement conferences. If the Respondent wishes to pursue the  
18 possibility of settling this matter, or has any other questions, the Respondent should  
19 contact Elyana Sutin, Enforcement Attorney, by telephone at 1-800-227-8917; extension  
20 6899 or 303-312-6899, or by mail at the address below. **Please note that contacting this**  
21 **attorney or requesting a settlement conference does NOT delay the running of the**  
22 **30-day period for filing an answer and requesting a hearing.**  
23

### 24 GENERAL ALLEGATIONS

25

26 The following general allegations apply to all times relevant to this action and to each  
27 count of this complaint:  
28

- 29 8. In order to restore and maintain the integrity of the nation's water, section 301(a) of the  
30 Act, 33 U.S.C. § 1311(a), prohibits the discharge of any pollutant by any person into  
31 navigable waters, unless authorized by certain other provisions of the Act, including  
32 section 402, 33 U.S.C. §1342.  
33
- 34 9. Section 402 of the Act, 33 U.S.C. § 1342, establishes a National Pollutant Discharge  
35 Elimination System (NPDES) program, under which EPA and, upon receiving  
36 authorization from EPA, states may permit discharges into navigable waters, subject to  
37 specific terms and conditions.  
38
- 39 10. Section 402(p) of the Act, 33 U.S.C. § 1342(p), requires that any discharge of storm  
40 water associated with an industrial activity must comply with the requirements of an  
41 NPDES permit.  
42  
43  
44

11. As directed by section 402(p) of the Act, 33 U.S.C. § 1342(p), EPA has issued regulations that further define requirements for NPDES permits for storm water discharges. The regulations include those codified at 40 C.F.R. part 122.26.
12. EPA's regulations define discharges associated with industrial activity to include construction activity, with exceptions not relevant here for some sites that disturb less than five acres. 40 C.F.R. § 122.26(b)(14)(x).
13. EPA's regulations require each person who discharges storm water associated with construction activity to obtain coverage under either an individual permit or a promulgated general permit. 40 C.F.R. § 122.26(c).
14. EPA has authorized North Dakota to assume primary responsibility for issuing NPDES permits for discharges in that state. 40 FR 28663, July 8, 1975.
15. The State of North Dakota issued general NPDES permit no. NDR03-0000, effective October 1, 1999, authorizing discharges of storm water associated with construction activities, if done in compliance with the conditions of the permit.
16. Respondent is a North Dakota corporation doing business in the State of North Dakota and registered with the North Dakota Secretary of State.
17. Respondent is a "person" as that term is defined in section 502(5) of the Act, 33 U.S.C. § 1362(5), and 40 C.F.R. § 122.2.
18. As a "person," the Respondent is subject to the requirements of the Act and 40 C.F.R. part 122.
19. Respondent owns and/or has been engaged in construction activities at a facility known as the Stamart Travel Center, which is located at 3500 12<sup>th</sup> Ave. N. Fargo, North Dakota 58102.
20. Respondent's construction activities at the Stamart Travel Center have disturbed over five acres, therefore, Respondent was engaged in an "industrial activity" pursuant to 40 C.F.R. § 122.26(b)(14).
21. The runoff and drainage from the Respondent's facility is "storm water" as defined in 40 C.F.R. § 122.26(b)(13).
22. Storm water contains "pollutants" as defined by section 502(6) of the Act, 33 U.S.C. § 1362(6).
23. Storm water, snow melt, surface drainage and runoff water flows from the Respondent's facility into the City of Fargo's municipal separate storm sewer system.

- 1 24. The City of Fargo's municipal separate storm sewer system located at the Respondent's  
2 construction site ultimately discharges by gravity flow into the Red River of the North.  
3
- 4 25. The Red River of the North is a "navigable water" and "waters of the United States," as  
5 defined by section 502(7) of the Act, 33 U.S.C. § 1362(7), and 40 C.F.R. § 122.2,  
6 respectively.  
7
- 8 26. The storm water runoff from Respondent's facility is the "discharge of a pollutant" as  
9 defined by section 502(12) of the Act, 33 U.S.C. § 1362(12) and 40 C.F.R. § 122.2.  
10
- 11 27. Respondent's construction activity at its facility is a "point source" as that term is defined  
12 in section 502(14) of the Act, 33 U.S.C. § 1362(14) and 40 C.F.R. § 122.2.  
13
- 14 28. Construction activities disturbing over five acres began at the Respondent's facility in  
15 April of 2002.  
16
- 17 29. On October 24, 2002, authorized EPA employees entered the Respondent's facility and,  
18 with the consent of Respondent, inspected the facility for compliance with the Act and  
19 EPA's regulations.  
20
- 21 30. As of October 24, 2002, the Respondent had neither applied for nor received an  
22 individual NPDES permit authorizing storm water discharges from its facility.  
23
- 24 31. The inspection revealed that the Respondent was not authorized by any NPDES permit to  
25 discharge storm water to waters of the United States.  
26
- 27 32. NPDES permits for discharges of stormwater to waters of the United States require,  
28 among other things, that a permittee develop a storm water pollution prevention plan  
29 (SWPPP), develop and implement a program for installing and maintaining Best  
30 Management Practices (BMPs), develop and implement a program for inspecting BMPs  
31 to minimize environmental impacts from storm water discharges, and to record and  
32 maintain records of inspections.  
33
- 34 33. As of October 24, 2002, the Respondent had not developed a SWPPP, had not developed  
35 or implemented a program for installing and maintaining BMPs such as maintaining  
36 vehicle track out pads, had not developed a program for inspecting BMPs, and had not  
37 recorded or maintained records of the inspections.  
38
- 39 34. In a letter dated November 15, 2002, Respondent received coverage under the North  
40 Dakota Storm Water General Permit #NDR03-0571 from the State of North Dakota  
41 Department of Health.  
42  
43  
44

- 1 35. The North Dakota Pollutant Discharge Elimination System (NDPDES) General Storm  
2 Water Permit #NDR03-0571 for construction activity requires that inspections be  
3 performed at least once every 7 calendar days and within 24 hours after any storm event  
4 of greater than 0.50 inches of rain per 24-hour period for construction activity with land  
5 disturbance of equal to or greater than 5 acres.  
6
- 7 36. Respondent failed to conduct the inspections every 7 calendar days and within 24 hours  
8 after any storm event of greater than 0.50 inches of rain per 24-hour period as required by  
9 the NDPDES General Storm Water Permit #NDR03-0571 for construction activity.  
10
- 11 37. The NDPDES General Storm Water Permit #NDR03-0571 for construction activity  
12 requires that inspection results be summarized and recorded on a Site Inspection Record  
13 (SIR). The SIRs are required to be maintained on-site.  
14
- 15 38. Respondent failed to record and/or maintain on-site SIRs for weekly inspections as  
16 required by the NPDES General Storm Water Permit #NDR03-0571 for construction  
17 activity.  
18

19 **COUNT 1**  
20

- 21 39. At the time of the October 24, 2002 inspection, Respondent had not obtained a NDPDES  
22 permit authorizing storm water discharges from its facility.  
23
- 24 40. The Respondent's failure to obtain an NDPDES permit on or before the date of  
25 commencement of construction activities at its facility and everyday thereafter until a  
26 permit is in place is a violation of sections 301(a) and 402(p) of the Act,  
27 33 U.S.C. §§ 1311(a) and 1342(p) and 40 C.F.R. § 122.26.  
28

29 **COUNT 2**  
30

- 31 41. After obtaining its NDPDES general permit #NDR03-0571 on November 15, 2002, the  
32 Respondent failed to conduct storm water inspections at the frequency required by its  
33 NDPDES permit for a large construction activity and/or failed to record and/or maintain  
34 Site Inspection Records on-site.  
35
- 36 42. The Respondent's failure to conduct the required frequency of storm water inspections is  
37 a violation of part 3.B.1.a of the NDPDES General Storm Water Permit #NDR03-0571  
38 for construction activity and failure to record and/or maintain Site Inspection Records on-  
39 sit is a violation of part 3.C.  
40  
41  
42  
43  
44

## PROPOSED CIVIL PENALTY

Section 309(g) of the Act, 33 U.S.C. § 1319(g), as adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990 and 40 C.F.R. parts 19 and 27, authorizes the EPA to assess a civil penalty of up to \$27,500 per day, for each violation of the Act occurring after January 30, 1997 and prior to March 15, 2004, and \$32,500 for each violation occurring on or after March 15, 2004. Section 309(g)(3) of the Act requires EPA to take into account the following factors in assessing a civil penalty: the nature, circumstances, extent and gravity of the violation(s) and, with respect to the violator, ability to pay, any prior history of such violations, degree of culpability, any economic benefit or savings gained from the violation, and such other factors that justice may require.

In light of the statutory factors and the specific facts of this case, EPA proposes that a penalty of \$80,000 be assessed against Respondent for the violations alleged above, as explained below:

### Nature, Circumstances, Extent, and Gravity of Violations

Respondent began construction at the facility in April of 2002. The October 24, 2002 inspection revealed that the Respondent did not have a storm water permit for construction activities for its site, which encompassed more than 13 acres. During the months of un-permitted construction the site received approximately ninety-one percent (91%) of the total annual precipitation and there were no erosion or sediment controls implemented, leading to a high potential for runoff of materials.

Storm water discharge permits include various protective conditions, such as requirements to develop and implement a SWPPP or an equivalent erosion control plan, to implement and maintain appropriate BMPs to reduce pollution, to conduct storm water inspections at a certain frequency, and to record and maintain site inspection records.

The Respondent failed to obtain a permit which would have required compliance with the protective conditions such as develop or implement a SWPPP, to install or implement BMPs, and to conduct and record inspections. Consequently, due to failure to obtain permit coverage from the construction start date (April of 2002) to the time of inspection (October 24, 2002), Respondent's failed to develop or implement a SWPPP, to implement BMPs, develop program for maintaining BMPs, and to conduct and record inspections. Additionally, the Respondent also failed to conduct storm water inspections at the frequency required by its North Dakota Pollutant Discharge Elimination System permit #NDR03-0571 and to record and maintain the inspections from date of authorization (November 15, 2002) to date Notice of Termination was received (June 30, 2004).



1           Prior Compliance History

2  
3           This Complaint is the first enforcement action EPA Region 8 has issued to the  
4 Respondent requiring compliance with the applicable storm water regulations.  
5

6           Degree of Culpability

7  
8           The Respondent claimed not to have knowledge of the storm water regulations. However,  
9 the regulations have been effective since 1990 and, therefore, the Respondent had ample  
10 opportunity as well as an obligation to be aware of all environmental regulations relating to its  
11 activities.  
12

13           Economic Benefit

14  
15           The Respondent received an economic benefit from its failure to obtain and comply with  
16 any storm water discharge permit. For example, the Respondent delayed expenditures to comply  
17 with permit requirements including, but not limited to, developing and adhering to a SWPPP,  
18 installing and implementing BMPs, develop a program for maintaining BMPs, and conducting  
19 and recording inspections since the construction start date.  
20

21           Ability to Pay

22  
23           The proposed penalty was not reduced based on the statutory factor of an inability to pay.  
24 However, EPA will consider any new information the Respondent may present regarding the  
25 Respondent's ability to pay the penalty proposed in this complaint.  
26

27           Other Matters that Justice May Require

28  
29           At this time, EPA has not made an adjustment regarding this statutory factor.  
30


31           As required by section 309(g)(4) of the Act, 33 U.S.C. §1319(g)(4), prior to assessing a  
32 civil penalty, EPA will provide public notice of the proposed penalty and a reasonable  
33 opportunity for the public to comment on the matter and, if a hearing is held, to be heard and  
34 present evidence.  
35

36           If there is a hearing on this matter, it would be before an administrative law judge (ALJ),  
37 who will be responsible for deciding whether EPA's proposed penalty is appropriate. The ALJ is  
38 not bound by the penalty proposed by EPA and may assess a penalty above the proposed amount,  
39 up to the \$11,000 per day per violation authorized by the Act.  
40  
41  
42  
43  
44

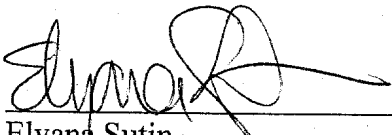
1 To discuss settlement or ask any questions about this case or process, the Respondent should  
2 contact Elyana Sutin, Enforcement Attorney, by telephoning 303-312-6899, or by writing to the  
3 address below.  
4

5 United States Environmental Protection Agency  
6 Region 8, Office of Enforcement, Compliance and  
7 Environmental Justice, Complainant  
8 999 18<sup>th</sup> Street, Suite 300 (ENF-L)  
9 Denver, CO 80202  
10

11  
12 Date: 02/16/2005

13 By:   
14 Carol Rushin  
15 Assistant Regional Administrator  
16

17 Date: 02/22/2005

18   
19 Elyana Sutin  
20 Enforcement Attorney

**PART 22—CONSOLIDATED RULES OF PRACTICE GOVERNING THE ADMINISTRATIVE ASSESSMENT OF CIVIL PENALTIES, ISSUANCE OF COMPLIANCE OR CORRECTIVE ACTION ORDERS, AND THE REVOCATION, TERMINATION OR SUSPENSION OF PERMITS**

**Subpart A—General**

**Sec.**

- 22.1 Scope of this part.
- 22.2 Use of number and gender.
- 22.3 Definitions.
- 22.4 Powers and duties of the Environmental Appeals Board, Regional Judicial Officer and Presiding Officer; disqualification, withdrawal, and reassignment.
- 22.5 Filing, service, and form of all filed documents; business confidentiality claims.
- 22.6 Filing and service of rulings, orders and decisions.
- 22.7 Computation and extension of time.
- 22.8 Ex parte discussion of proceeding.
- 22.9 Examination of documents filed.

**Subpart B—Parties and Appearances**

- 22.10 Appearances.
- 22.11 Intervention and non-party briefs.
- 22.12 Consolidation and severance.

**Subpart C—Prehearing Procedures**

- 22.13 Commencement of a proceeding.
- 22.14 Complaint.
- 22.15 Answer to the complaint.
- 22.16 Motions.
- 22.17 Default.
- 22.18 Quick resolution; settlement; alternative dispute resolution.
- 22.19 Prehearing information exchange; prehearing conference; other discovery.
- 22.20 Accelerated decision; decision to dismiss.

**Subpart D—Hearing Procedures**

- 22.21 Assignment of Presiding Officer; scheduling the hearing.
- 22.22 Evidence.
- 22.23 Objections and offers of proof.
- 22.24 Burden of presentation; burden of persuasion; preponderance of the evidence standard.
- 22.25 Filing the transcript.
- 22.26 Proposed findings, conclusions, and order.

**Subpart E—Initial Decision and Motion to Reopen a Hearing**

- 22.27 Initial decision.
- 22.28 Motion to reopen a hearing.

**Subpart F—Appeals and Administrative Review**

- 22.29 Appeal from or review of interlocutory orders or rulings.
- 22.30 Appeal from or review of initial decision.

**Subpart G—Final Order**

- 22.31 Final order.
- 22.32 Motion to reconsider a final order.

**Subpart H—Supplemental Rules**

- 22.33 [Reserved]
- 22.34 Supplemental rules governing the administrative assessment of civil penalties under the Clean Air Act.
- 22.35 Supplemental rules governing the administrative assessment of civil penalties under the Federal Insecticide, Fungicide, and Rodenticide Act.
- 22.36 [Reserved]
- 22.37 Supplemental rules governing administrative proceedings under the Solid Waste Disposal Act.
- 22.38 Supplemental rules of practice governing the administrative assessment of civil penalties under the Clean Water Act.
- 22.39 Supplemental rules governing the administrative assessment of civil penalties under section 109 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended.
- 22.40 [Reserved]
- 22.41 Supplemental rules governing the administrative assessment of civil penalties under Title II of the Toxic Substance Control Act, enacted as section 2 of the Asbestos Hazard Emergency Response Act (AHERA).
- 22.42 Supplemental rules governing the administrative assessment of civil penalties for violations of compliance orders issued to owners or operators of public water systems under part B of the Safe Drinking Water Act.
- 22.43 Supplemental rules governing the administrative assessment of civil penalties against a federal agency under the Safe Drinking Water Act.
- 22.44 [Reserved]
- 22.45 Supplemental rules governing public notice and comment in proceedings under sections 309(g) and 311(b)(6)(B)(ii) of the Clean Water Act and section 1423(c) of the Safe Drinking Water Act.
- 22.46–22.49 [Reserved]

**Subpart I—Administrative Proceedings Not Governed by Section 554 of the Administrative Procedure Act**

- 22.50 Scope of this subpart.
- 22.51 Presiding Officer.
- 22.52 Information exchange and discovery.

Authority: 7 U.S.C. 136i; 15 U.S.C. 2610(c), 2615(a) and 2647; 33 U.S.C. 1319(g), 1321(b)(6), 1342(a), 1415(a) and (f) and 1418; 42 U.S.C. 300g-3(g)(3)(B), 300h-2(c), 300j-6(a), 6912, 6925, 6928, 6945(c)(2), 6961, 6991b, 6991e, 7413(d), 7524(c), 7545(d), 7547(d), 7601, 7607(a), 9609, 11045, and 14304.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

EC-R-1998-159

III-A-01

1st page only

APR 10 1998

OFFICE OF  
ENFORCEMENT AND  
COMPLIANCE ASSURANCE

**MEMORANDUM**

**SUBJECT:** Issuance of Final Supplemental Environmental Projects Policy

**FROM:** Steven A. Herman  
Assistant Administrator

**TO:** Regional Administrators

I am pleased to issue the final Supplemental Environmental Projects (SEP) Policy, the product of almost three years of experience implementing and fine-tuning the 1995 Interim Revised SEP Policy. It is also the product of the cooperative effort of the SEP Workgroup, comprised of representatives of the Regions, various OECA offices, OGC and DOJ. This Policy is effective May 1, 1998, and supersedes the Interim SEP Policy.

Most of the changes made to the Interim SEP Policy are clarifications to the existing language. There are no radical changes and the basic structure and operation of the SEP Policy remains the same. The major changes to the SEP Policy include:

1. Community Input. The final SEP Policy contains a new section to encourage the use of community input in developing projects in appropriate cases and there is a new penalty mitigation factor for community input. We are preparing a public pamphlet that explains the Policy in simple terms to facilitate implementation of this new section.
2. Categories of Acceptable Projects. The categories of acceptable projects have remained largely the same, with some clarifications and a few substantive changes. There is now a new "other" category under which worthwhile projects that do not fit within any of the defined categories, but are otherwise consistent with all other provisions of the SEP Policy, may qualify as SEPs with advance OECA approval. The site assessment subcategory has been revised and renamed to "environmental quality assessments." The environmental management system subcategory has been eliminated.

Received

JUN 10 1998

Enforcement & Compliance Docket  
Center

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